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ABSTRACT

This document presents the Virginia Department of Education's plan to develop and implement pilot programs in six localities for the 1992-94 biennium (prior to statewide implementation in 1994) for the delivery of special education to juveniles in local jails. The plan is community based, with local school division administrators and jail administrators cooperatively developing a plan which is both responsive to community needs and in compliance with federal special education requirements. The pilot programs will attempt to: (1) gather data regarding number of inmates eligible for services and receiving services; (2) gather data on costs of service provision; and (3) develop effective identification and service provisions. The report's recommendations include provision by the Commonwealth of sufficient funds to compensate school districts for all costs associated with the program; increased funding to address additional security needs; and the allocation of appropriate space within jails for these educational services. Extensive appendices, which comprise about half of the document, a copy of the legislative resolution authorizing this study; a list of goals of public education and correctional education; standards for jail education; a review of special education programs in jails of other states; a report of onsite visits to jails; a description of Virginia's juvenile justice system; and a listing of local school divisions and jails. (Contains 27 references.) (DB)

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A PLAN FOR IMPLEMENTATION OF SPECIAL EDUCATION IN LOCAL JAILS IN RESPONSE TO HOUSE JOINT RESOLUTION 367

A REPORT TO THE VIRGINIA STATE CRIME COMMISSION

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
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JOSEPH A. SPAGNOLO, JR., Ed.D.
Superintendent of Public Instruction

December 16, 1991

Members of the Virginia State Crime Commission:

I am pleased to forward the Virginia Department of Education's report, **A Plan for Implementation of Special Education in Local Jails**, in response to House Joint Resolution 367 of the Virginia General Assembly.

This plan is designed to ensure effective implementation of special education programs in local jails through piloting programs in six localities for the 1992-94 biennium. Department staff will submit a report on the implementation plan to the Virginia State Crime Commission in 1993. Statewide implementation will commence in 1994.

Sincerely,

Joseph A. Spagnolo, Jr.
Superintendent of Public Instruction

I. PREFACE

The 1991 General Assembly approved House Joint Resolution 367, sponsored by Delegate Clifton Woodrum. This resolution requested that the Virginia Department of Education, with other state agencies and associations, develop a plan and fiscal impact statement for providing special education to children incarcerated in local jails. The Department of Education has developed a plan for implementation and presents this plan to the Virginia State Crime Commission.

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II. EXECUTIVE SUMMARY

House Joint Resolution 367, sponsored by Delegate Clifton A. Woodrum and passed by the 1991 General Assembly, requested that the "Department of Education with the assistance of the Departments of Correctional Education and Corrections, develop an implementation plan and fiscal impact statement for developing and providing special education to children incarcerated in local jails." The Department of Education was authorized to request the assistance and participation of jail sheriffs and superintendents in developing an implementation plan and fiscal impact statement and was asked to complete its work in time to submit a report to the Virginia State Crime Commission prior to the 1992 General Assembly.

The issue of providing services to inmates eligible for special education in local jails has been before the Virginia General Assembly in previous years. Following a 1987 complaint filed with the Office for Civil Rights, the federal Office of Special Education Programs directed Virginia to develop a plan for the provision of services, or jeopardize all federal special education funds flowing to Virginia. The Virginia State Crime Commission studied the education of jail inmates with disabilities in 1989 and published its report Education of Handicapped Jail Inmates in 1990.

The Department of Education (DOE) plan is community-based. Local school division and jail administrators will cooperatively develop a local plan, responsive to the community needs, and in compliance with federal special education requirements.

The Department recommends piloting the plan in six localities in the 1992-94 biennium. The purpose of the pilot will be as follows: (i) to gather data regarding the

number of inmates eligible for services and actively receiving services; (ii) to gather detailed costs of service provision; and (iii) to develop effective identification and service delivery programs. The Department of Education will return to the Virginia State Crime Commission in 1993 with a report of the initial results of the pilot and proposals for funding statewide program implementation and necessary legislative and/or regulatory changes. Statewide implementation will begin in 1994-95.

III. ACKNOWLEDGEMENTS

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IV: BACKGROUND

Origin of Current Report

In 1991, the Virginia General Assembly approved House Joint Resolution 367, sponsored by Delegate Clifton A. Woodrum. This resolution requested the Virginia Department of Education, with other state agencies and associations, to develop a plan and fiscal impact statement for providing special education to children incarcerated in local jails (Appendix A).

History of Current Report

In 1987, a complaint was filed with the Office for Civil Rights (OCR) against the Virginia Department of Correctional Education (DCE) regarding the unavailability of special education services for a youth who was detained in a variety of facilities, including two jails (Henrico County Juvenile Detention Home, Hanover County Jail, Richmond City Jail, and finally state corrections institutions). In December 1987, the issues regarding this complaint were resolved with OCR. The youth was placed in a state facility and special education services were provided through DCE. However, the question of responsibility for educating youth with disabilities in Virginia's jails was left unresolved with OCR. OCR directed the Virginia Department of Education (DOE) to move forward with development of an implementation plan for the provision of special education services to eligible inmates in local jails. Failure to do so would jeopardize the federal special education funds which flow to both the state and local education agencies.

In 1988-89, the Departments of Education and Correctional Education and the Virginia State Sheriffs' Association met to address the issues involving educating

handicapped youths residing in the jail system. A memorandum from the Virginia Office of the Attorney General in 1988 recommended that the Department of Education continue its efforts to develop a plan for provision of services.

In 1989, the General Assembly directed the Virginia State Crime Commission to conduct a study of handicapped individuals in Virginia jails. The study was designed to determine: (i) the number of handicapped youth requiring services; (ii) the resources required to provide services; (iii) the most efficient method of service delivery; and (iv) the cost of providing such services.

In 1989, OCR found the Virginia DOE in compliance with Section 504 of the Rehabilitation Act of 1973 on the basis of the Crime Commission's study. However, OCR indicated that the Virginia DOE must provide OCR with a status report during the development and implementation of a plan.

A bill was introduced in the 1990 Session of the General Assembly to amend the Code of Virginia relating to special education for children incarcerated in local jails. The bill placed fiscal responsibility for funding under the Interagency Assistance Fund for Noneducational Placements of Handicapped Children and placed responsibility for services on the local school divisions.The bill was carried over to 1991 and then withdrawn.

In 1990, the Virginia State Crime Commission published its report to the General Assembly, House Document 16: Education of Handicapped Jail Inmates. The following recommendations were made:

- " ... a state-responsible felon [with a handicap] would be assigned the

highest priority for transfer to [the Department of] Corrections for receipt of special education services, transfer subordinate only to those with significant health problems or those who present a threat to the safety of other inmates and staff";

- " ... a local-responsible inmate ... would either (i) receive service on-site in accordance with a 'local plan' developed by the local jail administrator and the local division school superintendent, or (ii) receive services in the local school system via 'educational release'";
- "all funding would be provided by the Commonwealth for implementation ... responsibility for appropriate expenditure to reside with the Virginia Department of Education";
- " ... the Department of Education ... [should] be the agency responsible for coordinating and ensuring the efficient conduct of the proposed program and require local education agencies to implement the program in concert and close cooperation with the local jail administrators"; and,
- " ... the Department of Correctional Education should provide technical assistance to the jails and educators."

Methodology

The Department of Education established a team of professionals to develop the implementation plan and fiscal impact statement. An internal team (comprised of staff with expertise in special education, correctional education, state-operated programs, special education law, policy analysis, and fiscal analysis) was complemented by an

expanded team representing those agencies and professionals critical to the successful establishment of a plan. A list of team members can be found in Section III, Acknowledgements.

Methods employed in the development of the implementation plan and fiscal impact study include:

- review of literature to identify available research regarding prevalence of disabilities among correctional populations, and implementation and funding of special education programs;
- on-site and telephone interviews with jail and education staff regarding existing education programs in jails in Virginia and across the nation;
- review and analysis of data regarding the number of inmates under age 22 residing in local jails in Virginia in Fiscal Year 1990;
- survey of current education programs in local Virginia jails;
- review of the Code of Virginia, federal special education regulations, Board of Education regulations and Board of Corrections regulations impacting on jail education programs; and,
- determination of fiscal impact for implementing special education programs.

V. EDUCATION PROGRAMS IN LOCAL JAILS FOR JUVENILES WITH DISABILITIES

Overview

This section addresses the prevalence of disabilities among juveniles in correctional populations, nationally and in Virginia. The status of special education programs in correctional facilities and of education programs in local jails is presented. The section concludes with a discussion of the current status of education programs in Virginia jails.

Juveniles with Disabilities in Correctional Settings

Nationally, 40 to 60% of juveniles in correctional facilities have previously been identified in public schools as needing special education services (Rutherford, 1991). Morgan (1979) indicated that 42% of incarcerated juveniles meet criteria included in the Education for all Handicapped Children's Act (P.L. 94-142)[1] for eligibility as a handicapped individual. Rutherford and his colleagues surveyed state correctional education agencies in 1985 to identify the percentage of suspected special education students out of the total population who were in juvenile correction settings. Results varied widely (8 to 99%). Watanabe and Forgnone (1990) reviewed numerous prevalence estimates for mentally handicapped juvenile offenders, reporting a range from 5 to 74% of the population. A review of the literature completed by the Institute on Mental Disability and the Law (1987) suggests the prevalence of handicapping conditions among young offenders to be 35.6% with learning disabilities and 12.6% with mental retardation. This study also noted the significant problem presented in identifying the prevalence of

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[1] The Education for All Handicapped Children Act is now termed the Individuals with Disabilities Education Act (P. L. 101-476).

emotional disturbance in correctional settings. One of the reasons for the discrepancies in the prevalence figures is the varying interpretations given to the federal definition for seriously emotional disturbance. Some educators include all adjudicated youths, and others include only those with emotional disturbance in the presence of an educational problem (Brown and Robbins, 1979). In addition, prevalence estimates for other handicapping conditions (e.g. sensory and physical disabilities) could not be determined, based upon the low number of empirical studies available. More recently, the Bureau of Justice Statistics (1988) revealed that 42 - 60% of adult literacy students in adult correctional facilities have disabilities.

A number of hypotheses have been developed to explain this disproportionate representation of persons with disabilities in correctional settings. Coffey, et al (1989) reports that although there is no evidence linking criminal behavior to mental retardation or learning disabilities, there are a variety of factors that can account for the prevalence figures. Coffey and her colleagues assert that persons with mental retardation are more frequently poor, undereducated, low-skilled, and members of minority groups and are representative of the same segment of society that makes up a large part of the prison population. Persons with learning disabilities frequently experience school failure, which may result in disciplinary problems, school drop-out and delinquent behavior. Further, some persons with learning disabilities often exhibit behaviors that may predispose them to criminal behavior: lack of impulse control, irritability and inability to judge consequences. Persons with such disabilities are noted to be more likely to be arrested and adjudicated than their nonhandicapped peers. Coffey and her colleagues assert that

persons with mental retardation and persons with learning disabilities are: (i) more likely to get caught in the act and arrested; (ii) may not understand their rights, and therefore waive their rights; fail to get bail or to be released on their own recognizance; and (iii) make self-incriminating statements or have difficulty speaking in their own defense. When incarcerated, these persons are frequently victimized by other inmates, spend much time in segregation and often have limited access to educational and vocational programs. In addition, the length of stay of inmates with disabilities is frequently longer and, because of their poor skills and limited work experience, recidivism is more frequent than with other ex-offenders.

School Drop Outs: A high proportion (estimates up to 90%) of adult inmates are school dropouts (Smith and Hockenberry, 1980). A report by the National Institute of Corrections indicates that 33% of inmates have completed high school or obtained a General Educational Development (GED) Certificate (U.S. Dept of Justice, 1986).

Virginia Status: In Virginia public schools, students with disabilities account for 11% of the school-age population (Virginia Department of Education, 1990, 1991). The percentage of students with disabilities grows dramatically when viewing the population of incarcerated youth. A 1989 study by the Virginia Department of Corrections, as reported by the Department of Criminal Justice Services' Juvenile Justice and Delinquency Prevention Three Year Plan, indicates that the majority of juveniles on probation in Virginia "have [a] diagnosed educational handicap." The Department of Correctional Education found that 37.7% of youth evaluated at the Reception and Diagnostic Center were identified to be in need of special education services in fiscal year

1989-90 (Department of Correctional Education, 1990).

An analysis of the pre and post sentence investigation data of felons under age 22 who were convicted in 1990 revealed that 72% had not completed high school. A number of these inmates dropped out prior to age 18 (17%) (Department of Criminal Justice Services, 1991).

Education Programs for Persons with Disabilities

The passage of the Education for All Handicapped Children Act in 1975 (P. L. 94-142) established the right of all students with disabilities to receive a free and appropriate education, tailored to their individual learning needs. This right is afforded students until they graduate, complete their education program, or reach their twenty-second birthday. The intent of the law is "zero reject" - no children or youth with disabilities can be denied education services. The state education agency's responsibility for ensuring that all eligible students be afforded an education was established by P.L. 94-142, including those served by other public agencies. State departments of education have established interagency agreements with a variety of public and private agencies to ensure the provision of services since the passage of this law.

Two additional laws passed by Congress impact on the provision of educational services to individuals with disabilities. Section 504 of the Rehabilitation Act of 1973, a civil rights statute, prevents discrimination on the basis of handicap in any program or activity receiving federal financial assistance. Local school divisions, as recipients of federal financial assistance under programs administered by the United States Department of Education, are required to comply with the requirements of §504 and its

implementing regulations, including the provision of a free appropriate public education to each qualified person with a disability in the local school division's jurisdiction. The Americans with Disabilities Act, signed on July 26, 1990, prevents discrimination on the basis of disability by any public entity, including exclusion from participation in, or denial of the benefits of the services, programs or activities of the public entity. Public entity is defined in the statute as any state or local government, any department, agency, special purpose district, or other instrumentality of a state or local government.

Correctional Education: One stated objective of the correctional facilities is to change the inmate's behavior patterns that were related to the criminal behavior. Many of these behaviors are directly related to the inmate's disability. The responsibility for addressing these behaviors rests with both schools and corrections facilities. However, education and correction agencies have traditionally viewed their missions as different and separate.

The implementation of special education in juvenile and adult correctional facilities has occurred more slowly than in public school settings. One of the problems is the frequently held concept of inmate ineligibility for services. This concept is based on the assumption that upon incarceration, inmates relinquished their rights to education (Eggleston, 1984). Most correctional education programs did not begin to address services to inmates with disabilities until 1978 (Eggleston, 1984). A 1983 report indicated that less than 10% of the state departments of juvenile and adult corrections were in compliance with the federal mandate (Coffey, 1983). Problems have been noted in the following areas: (i) requirements for parental consent and involvement; (ii) implementation

of a continuum of services in the least restrictive environment; (iii) inconsistencies in referral, assessment, and classification of students (especially students of minority and low socioeconomic status); and, (iv) length of stay (Eggleston, 1984, Miller, 1984). In addition, the shortage of special education teachers public schools is compounded in correctional facilities.

Education Programs in Jails: Because the primary focus of jails is maintenance of the safety and security of society, staff and inmates, educational programs are frequently viewed as a luxury in many of the nations' 3,500 jails. A National Sheriffs' Association study (Kerle and Ford, 1982) revealed that although 47% of the nations' jails offered General Education Development (GED) Certificate or Adult Basic Education programs, there was a great degree of variation in the availability of services. Whereas 90% of the larger jails (63 or more beds) offered such programs, only 18% of the smallest jails (16 or fewer beds) offered education programs.

A 1988 study by the Virginia Department of Correctional Education revealed a similar situation in Virginia. At that time, 64% of Virginia jails reported offering educational programs. The majority of the jails (90%) indicated that inmates enrolled in programs voluntarily. The following criteria for enrollment were cited: inmate interest, classroom conduct, absence of violent behavior, and the nature of crime for which the person was committed to jail. "Special education services" were provided in only one jail.

State education and correction agencies throughout the country were contacted to determine if a model could be found for implementing special education programs in Virginia jails. A few states provide special education services in jails; however, the

organization and authority for education and correctional programs in other states differ significantly from those in Virginia, making it impossible to find a model that could be readily replicated in the Commonwealth.

Education Programs in Virginia Jails

Virginia Local Jails: Jails in Virginia typically house local responsible inmates, inmates who are awaiting trial, serving a misdemeanor sentences or felon sentences of two years or less. In addition, many state responsible felons are held in local jails awaiting parole, release or transfer to state facilities.

Relatively few juveniles (under age 18) reside in jails, because a juvenile cannot be placed in a jail for more than six hours. The six-hour limitation can be exceeded if the juvenile is at least 15 years of age and his/her right to be tried as a juvenile has been waived, cr the juvenile has been transferred or certified to the circuit court as an adult. In addition, juveniles who pose a threat to juvenile detention home staff or other children can be transferred to jail by a judge. The facility must separate juveniles from adult inmates (Code of Virginia §16.1-249) Therefore, it is not uncommon for isolation cells to be used for juveniles to ensure the necessary separation. Currently, 52 of the 97 jails in Virginia are certified to hold juveniles (Department of Criminal Justice Services, 1991). Further information regarding Virginia's Juvenile Justice Systems can be found in Appendix I.

Virginia is faced with significant overcrowding problems in local jails and state institutions. According to the Commission on Prison and Jail Overcrowding, Virginia's incarcerated population has grown by an average of 8.9 % annually since 1983 (1989).

The total jail population grew by 104% from 1983 through 1989, while local jail capacity increased by 24% (Commission on Prison and Jail Overcrowding, 1989). Consensus forecast of local jail populations completed by the Department of Planning and Budget project the increase will continue over the next decade (Report of the Prison and Jail Forecasting Policy Committee, October 1991).

Over 250,000 persons are committed to jail on an annual basis. Approximately 20% of the population is under the age of 22 (fiscal year 1990 data indicates 45,900 inmates), with a small proportion under age 18 (622 inmates). These numbers are expected to grow on an annual basis. The Department of Planning and Budget, in its 1991 Local Responsibility Forecast, projects that the growth of daily local responsible (i.e. jail) population will increase from 9,175 in 1990 to 10,199 in 1993 (Report of the Prison and Jail Forecasting Policy Committee, October 1991).

The majority of the jail population does not reside in jail for an extended period of time; 80% of inmates under age 22 are released by the 10th day. Of those in confinement during fiscal year 1990, the maximum length of stay extended to over 500 days, although that length of stay is relatively unusual.

This special education implementation plan is directed toward providing educational services for inmates who are under age 22 and who will remain in jail for more than 10 days. Services will primarily target the aged 18 to 22 population, with some jails also providing services to a small number of juveniles.

Educational Programs: The Virginia Department of Education and Virginia State Sheriffs' Association conducted a survey of sheriffs to ascertain the current status of

educational programs in Virginia jails. Responses were received regarding 70 of 97 jails (72% response rate). The majority of jails that responded provide some type of education program (76%), as shown in Figure 1. Adult Basic Education (ABE) programs appear to be the foundation of jail education programs in that no education programs are offered in jails without ABE.

Type of Education Program	Respondent Jails Offering Program
Adult Basic Education	73%
Traditional high school diploma	20%
Education for persons with disabilities	16%
Vocational education	9%

Figure 1. Education Programs in Virginia Jails

In 1988, a Department of Correctional Education study identified only one jail that provided an education program for individuals with disabilities. It appears from the current survey that there has been an expansion in the provision of programs including persons with disabilities. These programs, however, are not special education programs, according to federal requirements. Rather, certain jails offer existing programs to individuals with disabilities.

A majority of jails responding (51%) have established cooperative agreements with local school divisions for the provision of education programs. Although the typical agreement addresses only ABE, the high number of agreements demonstrates that interested professionals recognize the need to work cooperatively to provide education

programs.

The majority of education programs in jails receive some degree of funding (79%). Funding for teachers, materials, supplies and equipment is obtained from a variety of sources, including local school divisions, federal grants, local jail funds and local government.

The availability of space for the provision of educational programs presents a serious problem in most jails. Only a small number of responding jails (22) have a planned area for education programs. Of these, 18% are not currently using those areas for education programs, suggesting that available space has been targeted for other purposes. A majority of responding jails (66%) do indicate that they have some area where educational services could be provided. However, these jails do not indicate that this space would be available for a typical school week (41% indicate that space is available for five or more days per week; 52% indicate that space is available for five or more hours per day), nor can it be devoted solely to education.

Conclusion

The presence of a large number of inmates in Virginia jails for more than ten days and the prevalence of disabilities among correctional populations indicates that a significant number of inmates in local jails may be eligible for special education services. Jails do not currently offer special education programs, although many make adult basic education available to inmates. The development of special education programs in jails may be hampered by the shortage of available program space.

VI. LEGAL AUTHORITY

Overview

A number of state and federal mandates direct the state to provide special education services to eligible inmates in local jails. The Code of Virginia identifies the authority of state and local agencies.

State and Federal Mandates

The Code of Virginia makes the Board of Education responsible for supervising the implementation by each school division of a special education program to educate and train children with disabilities between the ages of 2 to 21, inclusive (§22.1-214). Virginia compulsory school attendance extends to age 18 (§22.1-254). Effective July 1, 1992, the compulsory attendance law will be expanded to include any "child in the custody of the Department of Youth and Family Services, or any child who may have been adjudicated as an adult[2], and who has not passed his eighteenth birthday" (§22.1-254).

Federal special education regulations hold the State education agency (SEA) responsible for insuring "... that each educational program for handicapped children administered within the State, including each program administered by any other public agency, ... meets education standards of the State educational agency." (§ 300.600). This language is interpreted to mean that the SEA (i.e. the Virginia Department of Education) is responsible for monitoring special education programs offered by any agency or facility, including those provided in jails. Failure to comply with federal regulations

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[2] "Adjudicated as an adult" means any juvenile case waived, transferred or certified to the circuit court as an adult

jeopardizes the flow of federal special education funding to Virginia public schools and the Virginia Department of Education.

State and federal special education mandates require these service to be provided until the student reachers the age of 22 or until the individual graduates from a secondary school or completes a program approved by the Board of Education.

Litigation indicates that an eligible student cannot be denied educational services because of incarceration. (Johnson v. Green 513 F. Supp 965 [D. Mass. 1981]). Youth committed to jail who are found to be in need of special education services must be provided a free and appropriate public education.

The Code of Virginia identifies the Board of Corrections' responsibility for maintaining minimum standards for construction, equipment, administration and operation of local correctional facilities and lockups (§53.1-68). The Director of the Department of Corrections has authority to transfer prisoners into and between state and local correctional facilities (§53.1-21).

The Department of Correctional Education is responsible for providing technical assistance to local correctional facilities housing state felons, upon request of such facility (Code of Virginia §22.1-343).

The Code of Virginia also places the responsibility on local governments for operating jails and keeping them in good order (§15.1-257). The sheriff is charged with the duty of feeding and caring for all prisoners confined in a local jail (§15.1-608, §15.1-824).

Responsibility for Education Programs in Local Jails

The state and federal mandates suggest the following demarcation of responsibility:

Department of Education: The Virginia Department of Education has the responsibility for ensuring that all persons with disabilities, from 2 through 21 years of age, inclusive (to the twenty-second birthday), residing in the Commonwealth of Virginia are identified, evaluated, and have available a free and appropriate public education. The Department's responsibility includes (i) monitoring compliance with the Regulations Governing Special Education Programs for Handicapped Children and Youth in Virginia (Virginia Regulations); (ii) reviewing local jail implementation plans as a component of the Special Education Annual Plan; and (iii) disbursement of funds to localities.

Local School Divisions: Local school divisions, in cooperation with jails and the Department of Education, are responsible for developing and executing a local special education plan that clearly defines implementation strategies for the delivery of special education services to all eligible inmates committed to jails. (An "eligible inmate" refers to inmates who have been identified, evaluated, and determined to be in need of special education services according to the Virginia Regulations.) The school divisions are responsible for (i) providing special education services to eligible students, including those in local jails; (ii) providing regular education services to inmates under age 18 who have not graduated or received a General Educational Development (GED) Certificate; and (iii) maintaining educational records of inmates in accordance with the Management of the Student's Scholastic Record in the Public Schools of Virginia.

Jails: Each jail must permit the local school division to provide the required education services to inmates. Education services must be provided within the parameters of the jail policies and the security/safety issues identified in each inmate's Individualized Education Program (IEP). Providing employees and inmates with a secure and safe environment is the responsibility of the sheriff and/or jail administrator and is reflected in the procedures and practices of each jail site.

Sheriffs or jail administrators must ensure that education personnel who provide services in jails are informed regarding the procedures and practices of the jail where services are being provided. In addition, jail personnel are responsible for the security and safety of employees, educators and inmates.

Local Government: The local government is responsible for operation of the jail in compliance with all state and federal regulations, including those regulations addressing special education. As a result, local government should ensure that jail facilities provide space for education programs that is accessible to persons with disabilities.

Department of Corrections: The Department of Corrections (DOC) is responsible for transferring sentenced, state-responsible inmates (felon with a sentence of two years or more) receiving special education services in local jails, to DOC facilities on a priority basis. In addition, the DOC should ensure that the Minimum Standards for Jails and Lockups and the Guide for Minimum Standards in Design and Construction of Jail Facilities meet the federal requirements for the provision of special education programs in these facilities.

Department of Correctional Education: The Department of Correctional Education is responsible for providing technical assistance to school division and jail personnel in establishing and providing education programs to individuals in jails.

Conclusion

The provision of special education programs in local jails will be accomplished through a multi-agency effort. Education and corrections officials at the state and local level must work cooperatively to ensure that programs are effectively implemented.

VII. IMPLEMENTATION PLAN

Overview

State and federal mandates direct educators to target all inmates under age 18 and all inmates under age 22 who are eligible for special education services and have not graduated or obtained a GED certificate.

According to jail administrators, sheriffs and inmates, jail education programs are highly desirable in most jails, as indicated by the high incidence of ABE programs in Virginia jails. The planning, development, and provision of special education services to eligible inmates in jails requires a cooperative effort between local jail and school division officials.

A high percentage of inmates are released prior to the tenth day of incarceration, many within the first 24 hours. As a result the implementation plan targets inmates incarcerated for more than 10 days. All inmates under age 22 must be considered for special education services. Referral for services and/or evaluation may be initiated by inmate self-report or by education or jail staff. Final determination of eligibility for special education services rests with the each inmate's special education eligibility committee.

The following sections address the nature of the proposed implementation plan and delineate the specific responsibilities of agencies involved.

Community Based Services

The responsibility for the operation of jails and the care of inmates rests with the local government and the local sheriff. The delivery of education programs for students

is the responsibility of local school divisions. These two entities will develop education programs for eligible inmates in jails that will be sensitive to the unique needs of the the local setting. School divisions and jail administrators are responsible for developing an implementation plan that must be submitted annually to the Virginia Department of Education as part of the Special Education Annual Plan.

Each education program in jails shall include the following components:

(1) Interview and Identification of Eligible Inmates:

- o identification of inmates committed for more than ten days who may be eligible for special education;
- o counseling potentially eligible inmates regarding their rights to special education services; and,
- o counseling potentially eligible inmates regarding adult basic education, vocational skill development and literacy, the availability of services, and the potential impact of education services on the inmates' successful return to the community.

(2) Provision of Education and Related Services:

- o provision of education services to all inmates under age 18 who have not graduated or obtained a GED;
- o provision of special education and related services to all eligible inmates under age 18 who have not graduated or obtained a GED; and,
- o provision of special education and related services to all eligible

inmates between the ages of 18 and 22 who have not graduated or obtained a GED and who desire such services.

The initiation of the special education process in local jails will facilitate continuation of services for inmates transferred to DOC facilities and receiving education services from DCE. Education personnal may also facilitate an inmate's enrollment in ABE or other education programs within the community, upon release from jail. The jail education staff will forward information to educators in those facilities, as appropriate.

The Jail Education Program Standards (Appendix C) and Jail Education Program Flow Chart (Appendix D) provides further detail regarding the necessary components for identification and provision of services.

Education programs in local jails should reflect the goals of both public education and correctional education (Appendix B). Public educators should be alert to the different focus needed for education programs in local jails. Whereas special education programs for all students will be developed individually in response to needs of inmates, the nature of the offense for which the inmate was committed to jail will dictate modifications from the standard public school curriculum. For example, it is not expected that high school classes would be offered for credit, due to the transient nature of the population and the unlikely prospect that inmates would return to high school to obtain a diploma. Rather, education programs should reflect the inmates' future needs, and skill development should be designed to meet those needs. The following types of programming are suggested:

- functional literacy skills;

- o job readiness skills;
- o problem-solving and decision-making skills;
- o social and communication skills; and,
- o community services information and transition services.

Interagency Agreements

To implement the provision of special education services and insure the proper participation on the part of state and local agencies involved, certain interagency agreements should be established.

Local School Divisions and Jails: Interagency agreements between school divisions and jails may be between a single school division and a single jail, or may involve multiple school divisions and/or jails. The agreements must address the following minimum components:

- o employment and supervision of education personnel;
- o delineation of intake procedures, to include responsible personnel;
- o security and safety procedures for education personnel;
- o selection and utilization of instructional materials, supplies, and space;
- o procedures for implementation of the Virginia Regulations; and,
- o staff development for education and jail personnel.

A copy of the agreement will be included in the local school division's Special Education Annual Plan. Interagency agreements also may be generated with other local agencies to obtain personnel to provide the services needed. A listing of local jails and localities can be found in Appendix J.

Department of Education and Department of Corrections: The Departments of Education and Corrections will establish an interagency agreement to ensure that sentenced, state-responsible inmates receiving education services in local jails, will be transferred to Corrections facilities on a priority basis.

Department of Correctional Education: The Department of Correctional Education will establish interagency agreements with school divisions and the Department of Education for the purpose of providing technical assistance to education and jail personnel in planning and providing education services.

Timelines

Pilot of implementation plan: To ensure establishment of procedures and service delivery models that meet the needs of a local community and to assure accuracy of data used in developing the fiscal impact for statewide services to jail inmates, the plan will be piloted prior to statewide implementation. The pilot plan will be implemented for a period of two years (1992-94) in six local school divisions that have a jail within their geographic boundaries. Localities selected will be representative of the diverse jail and school division populations in Virginia, based upon the following criteria:

- urban, rural, and suburban localities;
- small, medium, and large jails;
- single and multiple jurisdiction jails;
- jails with and without juvenile certification;
- localities with and without previously established cooperative agreements between the local school division and local jail; and,

- jails with and without designated space for educational programs.

The completion of a two-year pilot project will allow for the evaluation of effective identification and service delivery programs prior to statewide implementation, including:

- communication systems between jail and school division personnel;
- procedures for implementing the special education process;
- procedures for identifying inmates with disabilities (second year of the pilot);
- selection of curriculum, materials, supplies, and equipment; and,
- recruitment of education personnel.

In addition, data can be gathered to develop more fiscal projections, prior to statewide implementation, including:

- number of inmates identified with disabilities;
- length of stay of inmates with disabilities;
- number of eligible inmates enrolled in programs;
- education outcomes for inmates enrolled in programs;
- number of inmates transferred to Department of Corrections' facilities;
- education staffing patterns;
- impact on assignment of deputies;
- impact on jail space;
- accessibility of jail space to inmates with disabilities;
- impact on Department of Education staff; and
- impact on Department of Correctional Education staff.

The pilot project will also allow for identifying changes that may be needed in the

Code of Virginia, the Regulations of the Board of Education, and the Minimum Standards of the Board of Corrections to facilitate the provision of special education services in jails.

Statewide implementation: Following completion of the pilot phase, statewide implementation will commence in 1994-95. The information gathered during the pilot program will allow for dissemination of effective service delivery techniques in the varied jail settings throughout the state.

Conclusion

This implementation plan calls for a community-based program, designed cooperatively by local jail and education personnel. To ensure the success of the proposed plan, a pilot program will be initiated prior to statewide implementation.

VIII. FISCAL IMPACT

Overview

The Department of Education pursued development of the fiscal impact for conducting special education programs in jails based upon the Virginia State Crime Commission's 1990 recommendation that "all funding would be provided by the Commonwealth for implementation." The fiscal impact focuses on funding six pilot programs for a two-year period. A fiscal impact will be developed for state-wide implementation based upon the data gathered during the pilot.

Projection of Target Population

Estimates of a target population for statewide implementation are hampered by the lack of data regarding the number of inmates with disabilities in jails, the length of stay of these inmates, and the enrollment of inmates in education programs. Estimates of a potential statewide population for interview and identification and for enrollment were developed based on available data.

The projected population of inmates under age 18 statewide (fiscal year 1990) was developed in light of the following facts:

- the compulsory attendance law states that all juveniles under age 18 must receive an education and therefore must be targeted for identification, interview and service delivery;
- the majority of juveniles committed to jail (622) are released within 10 days of commitment (DOC, FY 90 data);

- o fiscal year 1990 data show that 267 of the 622 juveniles in local jails were incarcerated for more than 10 days; and,
- o national prevalence figures imply that half of the juveniles would require special education programs (134) and half require regular education programs (134).

The projected population of inmates statewide between ages 18 and 22 (fiscal year 1990) was based on the following facts and assumptions:

- o federal special education regulations mandate that all youth eligible for special education be provided services until their twenty-second birthday, or until they complete school; and therefore must be targeted for identification, interview and service delivery;
- o the majority of inmates between the ages of 18 and 22 (45,900) are released within 10 days of commitment (DOC, FY 90 data);
- o fiscal year 1990 data show that 9,205 of the 45,900 youth (18 to 22) in local jails were incarcerated for more than 10 days;
- o national prevalence figures imply that half of the youth would have a disability that may make them eligible for special education (4,603 of the 9,205 committed for over 10 days); and,
- o youth who have completed school (i.e., high school graduate or GED recipient) do not require continued special education services; fiscal year 1990 pre-sentence investigations of convicted felons indicate that 72% of inmates are noncompleters (3,314 of the 4,603 who may be eligible); and,

- some youth over the compulsory attendance age (18) may decide not to receive services; using the first year enrollment in DCE's Literacy Incentive Program (1988), it is projected that 62% of eligible noncompleters will decide to receive services (2,054 of the 3,314 noncompleters who may be eligible).

Funding of Pilot Program

The decision to recomend piloting the program was based, in part, on the difficulty of making accurate estimates of the potential population in jails in Virginia and the number of inmates who may need special education services. To collect the maximum amount of pilot project data, a budget was developed that was sufficient to compensate six pilot sites for all direct and indirect costs of implementing special education programs in jails. The budget was based on the assumption that the estimate of needed funds will remain adequate as long as no more than six jails are selected in which the combined annual commitments (under age 22) are fewer than 7,000 inmates (projected fiscal year 93).

The budget estimates were based upon:

- the operational costs of six jails that are representative of the criteria to be used for selecting actual pilot sites;
- adjusted eligible inmate population projections, based upon 1990 fiscal year data as reported by the Department of Planning and Budget's 1991 Forecast of the increase in population of local responsible felons by 1993;
- existing Department of Education and Department of Correctional Education staffing patterns for instructional, administrative and relative service staff; and,

- the cost of teacher salaries, materials, supplies and travel allowances as determined by the Department of Education.

It is projected that a total of $2,286,126 will be required to fund the personnel and nonpersonnel costs associated with implementation of the pilot in six representative local jails for a two-year period ($1,055,142 in FY 93 and $1,130,984 in FY 94). Fiscal project methodology is reported in detail in Appendix E. Funds for these services would be disbursed to localities by the Department of Education.

Conclusion

Pilot programs are recommended to gather accurate data which can be used to project the fiscal impact of state-wide implementation. Full funding of the pilot project is necessary to insure the accuracy of data for development of a budget for statewide implementation.

X. RECOMMENDATIONS

Provision of Education Services to Eligible Inmates

State and federal mandates indicate that certain persons should not be denied an education program because they reside in local jails. All inmates under age 18 fall within Virginia's compulsory attendance law. All inmates under age 22 eligible for special education services, who have not otherwise completed school, must be informed of their right to receive services and have services made available to them. In addition, criminal justice and education personnel agree that an education program is an important component in the rehabilitation of incarcerated youth.

Recommendation 1. The Commonwealth should move forward with the implementation of education programs for eligible inmates in local jails.

Recommendation 2. The Commonwealth should appropriate sufficient funds to establish a process to compensate school divisions for all direct and indirect costs associated with providing education services to eligible inmates who have been committed to jails.

Resources Required for Implementation of Services:

There is no model for provision of special education services in jails that can readily be adapted for statewide use in the Commonwealth. Further, there is insufficient data regarding the potential population to be served in local jails.

Recommendation 3. The implementation of special education programs in local jails should be piloted in six representative localities during the 1992-94 biennium. The

pilot program will allow for data collection and identification of effective service delivery techniques.

Funds are requested in the amount of $2,286,126 ($1,055,142 in FY 93 and $1,130,984 in FY 94) for implementation of the pilot program in six representative localities.

The Department of Education will return to the Crime Commission in 1993 with a report of the pilot program, including a 1994-96 budget request for statewide implementation and proposed changes to the Code of Virginia to facilitate the provision of services.

Recommendation 4. The Commonwealth should support the recommendations of the Department of Correctional Education for additional special education positions for the provision of technical assistance.

Recommendation 5. Security staff funding is provided by the Compensation Board based solely on the number of inmates. Funding formulas do not consider expenses related to programs and transportation. The Commonwealth should, through the Compensation Board, address the additional security needs that will result from providing education services in jails.

Recommendation 6. The Department of Corrections, in its revision of the Minimum Standards for Jails and Lockups and Guide for Minimum Standards in Design and Construction of Jail Facilities should ensure the allocation of space for education services; the space should be accessible to inmates with disabilities, in compliance with federal regulations.

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APPENDIX A

HOUSE JOINT RESOLUTION 283

GENERAL ASSEMBLY OF VIRGINIA--1991 SESSION

HOUSE JOINT RESOLUTION NO. 367

Requesting the Department of Education and other state agencies and associations to develop a plan for providing special education to children incarcerated in local jails.

Agreed to by the House of Delegates, January 30, 1991
Agreed to by the Senate, February 21, 1991

WHEREAS, House Joint Resolution 283 of the 1989 Session of the General Assembly authorized the Virginia State Crime Commission to conduct a study of special education services for handicapped youth in Virginia jails; and

WHEREAS, the study of handicapped inmates was undertaken in response to a request from the U. S. Department of Education Office for Civil Rights that Virginia develop a plan for education of its handicapped inmates; and

WHEREAS, Public Law 94-142 (20 U.S.C. § 1400 et seq.) requires the states to provide special education to handicapped jail inmates; and

WHEREAS, a Virginia plan for providing special education services to handicapped inmates, if implemented, would be the second such plan extant in the United States; and

WHEREAS, House Bill 225 of the 1990 Session of the General Assembly, relating to special education for children incarcerated in local jails, was carried over to the 1991 Session; and

WHEREAS, a plan for providing special education services to handicapped inmates should be developed prior to amending the Code of Virginia so that delivery of services could be implemented at the time such law would be enacted; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Department of Education, with the assistance of the Departments of Correctional Education and Corrections, develop an implementation plan and fiscal impact statement for developing and providing special education to children incarcerated in local jails. The Department of Education shall request the assistance and participation of jail sheriffs and superintendents in developing an implementation plan and fiscal impact statement.

The Department of Education shall complete its work in time to submit a report to the Virginia State Crime Commission by August 15, 1991.

APPENDIX B

GOALS OF PUBLIC EDUCATION AND CORRECTIONAL EDUCATION

GOALS OF PUBLIC EDUCATION[3]

The goals of public education in Virginia are based on the concept that educational excellence and equity are promoted by establishing a program that specifies a core of expectations for each and every student, supplemented with enhancement and specialization.

Schools will be prepared to receive and educate each student such that:

- all students will demonstrate competence in a core of expected outcomes;
- all students will be aware of the importance of individual and shared responsibilities to the community in an increasingly global society; and,
- all graduates will be prepared to directly enter and continue in the skilled work force, or to enter and complete further academic and technical education.

Schools have a unique responsibility for achieving these goals and for making that a collaborative effort with families, businesses, and the community.

The Competencies/Expectations:

The core is a listing of valued outcomes. These are the concepts, knowledge, skills and attitudes that all students must acquire to meet current and projected requirements of our society and economy.

1. Proficiency in communication skills including language (reading, writing, speaking, listening) and the fine arts.
2. Proficiency in problem solving and decision making, both individually and collaboratively.
3. Proficiency in computer and technology skills and applications.
4. Proficiency in mathematics and sciences and their applications to daily life and the work place.

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3 Adopted by the Board of Education as a Working Draft, March, 1991

5. Proficiency in applying knowledge of diverse governmental, political, societal, and economic systems and their histories and interrelationships.

6. Proficiency in maintaining physical, emotional, social and psychological well-being and in applying knowledge of the environment and its importance to the human condition.

GOALS OF THE DEPARTMENT OF CORRECTIONAL EDUCATION [4]

1. Achieve and maintain compliance with the program standards published by the Correctional Education Association and the American Correctional Association.

2. Develop and provide individual program plans for each student based on the results of a comprehensive assessment of educational and vocational needs and aptitudes.

3. Provide a comprehensive education program for all eligible juvenile and adult offenders that includes academic education, prevocational, vocational, social skills, and post-secondary programs.

4. Provide transition services and interagency linkages that will facilitate the transition of adult and juvenile offenders into the work or public school community and assist in their integration into the mainstream of society.,

5. Involve all juvenile and adult schools in ongoing and intentional renewal activities designed to improve the quality of teaching and learning.

6. Provide ongoing staff development and ensure employee access to training opportunities in order to facilitate updating and improvement of professional skills.

7. Develop and maintain cooperative working relationships with public and private sector representatives to supplement and complement Department of Correctional Education program opportunities.

8. Provide technical assistance upon request to jail in the establishment of jail education programs.

9. Maintain and foster a cooperative relationship with Department of Corrections and Department of Youth and Family Services staff and work with them in achieving the aforementioned goals.

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[4] Virginia Department of Correctional Education, Annual report 1989-1990 fiscal year.

APPENDIX C

JAIL EDUCATION PROGRAM STANDARDS

Annual Plan

Each school division in which a jail is located, shall address, in its Special Education Annual Plan, as required by the Board of Education's Regulations Governing Programs for Handicapped Children and Youth in Virginia (Virginia Regulations) the provision of education services to inmates with disabilities who are committed to jail. The plan shall include:

- o goals and objectives of the education program in jails;
- o intake procedures, including identification of persons to gather intake information;
- o procedures for transition of students;
- o qualifications of staff assigned to provide education services in jails; and,
- o copy of interagency agreement.

This plan shall be developed in cooperation with local jail administrators.

Jail Education Personnel:

Education personnel shall include: jail education contact(s), teacher(s), and related service personnel. Staffing patterns will be dependent on the total jail population under age 22, the average daily population of inmates eligible for special education and the average daily population of inmates under age 18. Pupil-teacher ratios shall be maintained in accordance with the Virginia Regulations and the DOE's Special Education

Program Standards.

At least one **jail education contact** person shall be identified in each locality to coordinate the provision of special education services to eligible inmates. As coordinator, the jail education contact's responsibilities may include: coordinate development of local interagency agreement(s); review local jail intake records; interview inmates; serve as liaison with school division of origin; and provide direct instruction to inmates. The jail education contact shall be certified in Virginia and endorsed in any of the following areas: emotional disturbance, learning disabilities, mental retardation, guidance and counseling, visiting teacher, or school social work, according to criteria found in the Board of Education's Certification Regulations for Teachers.

Teachers and **related service personnel** will provide direct services to inmates as detailed in each inmate's IEP. Teachers must meet requirements for endorsement in special education in emotional disturbance, specific learning disabilities or mental retardation in accordance with the Certification Regulations for Teachers. Related service personnel must meet appropriate licensure or endorsement requirements.

Special educators providing services in jails shall receive training and orientation by jail personnel in matters of security and safety and jail operations which affect the delivery of education services and shall adhere to policies and procedures necessary for implementing special education services. In addition, a staff development program (Comprehensive System of Personnel Development) will be provided by the school division and jail personnel (in cooperation with the DCE and DOE) to education staff providing services to inmates.

Jail Education Program Administration

The following criteria will apply to the administration of special education programs to all eligible inmates, upon full implementation of the program. The implementation of each component will be phased in over the two-year pilot period. The focus of services during the first year will be on providing services to inmates previously identified as eligible for special education. The process of identifying eligible inmates will be initiated during the second year.

1. A system of communication needs to be established to link information between the jail and the school division. The division must receive notice within five school administrative working days after the inmate's tenth day of commitment. The following information will be collected at intake and may be based on self report:

   a) Name, and any known alias(es);

   b) Date of birth;

   c) Social Security number;

   d) Date committed;

   e) Anticipated duration of stay, arraignment, or trial dates if possible;

   f) High school graduate or GED completer;

   g) Name of last school attended, dates attended, and location; and,

   h) Previous eligibility for special education services.

   The school division should review the information regarding any inmate committed to jail who is less than 22 years of age and who has not

graduated from high school or obtained a GED certificate, to determine if a referral for special education services is required.

2. School division records will be reviewed and the inmate interviewed by education personnel to obtain additional education information needed. This review of records and interview must be completed within five (school administrative) working days following notification from the jail of the inmate's commitment. In the event that inmates are incarcerated in localities other than where they live, the school division jail education contact shall obtain records from the appropriate school division(s).

3. The re-evaluation process should be initiated for those students for whom eligibility is not current, in accordance with the Virginia Regulations.

4. Identified jail inmates are not incarcerated for educational reasons. Therefore, the provision of education services to them is an extension of their previous educational program. As a result, continuation of services is not seen as a change in education placement.

5. Special education services shall be made available to all eligible inmates. Eligible inmates over 18 years of age who decide not to receive special education services must document this decision. Parents/guardians or surrogates will be informed about the inmate's decision. These inmates shall be informed of their right to receive special education services until they reach their twenty-second birthday, or until they receive a diploma or GED certificate.

6. An Individualized Education Program (IEP) for each inmate with disabilities shall be developed according to Virginia Regulations. The IEP must be in effect before special education is provided an inmate (developed within 30 calendar days of a determination that the inmate needs special education and implemented as soon as possible following the IEP meeting). The IEP may be amended in response to the different education needs and potentially altered goals and objectives of education for the inmates. Virginia Regulations specify the participants in the IEP meeting and indicate that, at the discretion of the parents or the school division, other individuals may be included. These individuals may be the sheriff, jail administrator, or designee. Participation of the jail staff is necessary to incorporate information from the sheriff or jail administrator regarding security and safety issues which may have an impact on the education services to be provided.

7. The jail education contact will forward information to other agencies, as appropriate, for all eligible inmates released from jail. To facilitate this transfer of information the following data should be gathered for those released:

   a) Name, and any known alias(es);

   b) Social Security number;

   c) Last known address;

   d) Date of release; and,

d) Reason for release.

8. Confidential educational records of inmates with disabilities will be properly maintained pursuant to Management of the Student's Scholastic Record in the Public Schools of Virginia.

9. Surrogate parents[5] will be appointed, as appropriate, by the school division in accordance with the Virginia Regulations. Surrogate parents will not be employees of either the school division or the jail.

10. Procedural safeguards will be guaranteed in accordance with the Virginia Regulations.

11. The provision and security of instructional materials, supplies, and space shall be addressed in the interagency agreement between the school division and the jail.

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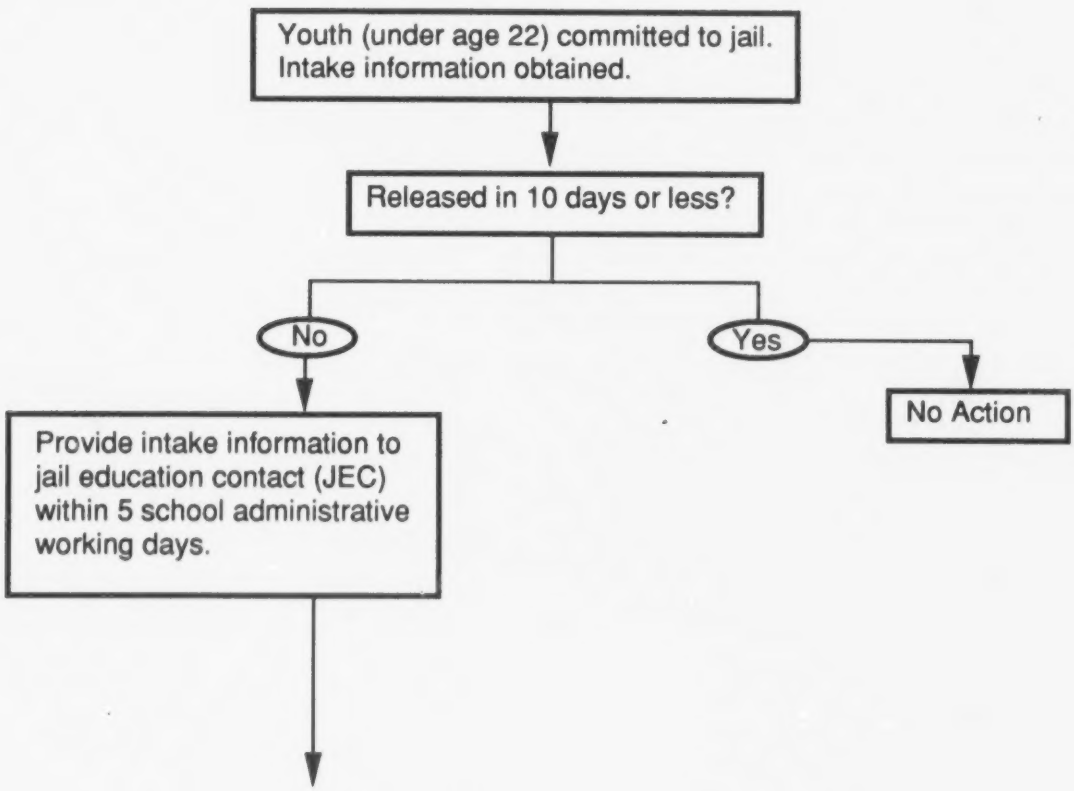
5 "Surrogate parent" means a person appointed in accordance with procedures set forth to provide children who are in legal or physical custody of the state, or whose parents are not known or are unavailable, with the protection of procedural safeguards (Virginia Regulations).

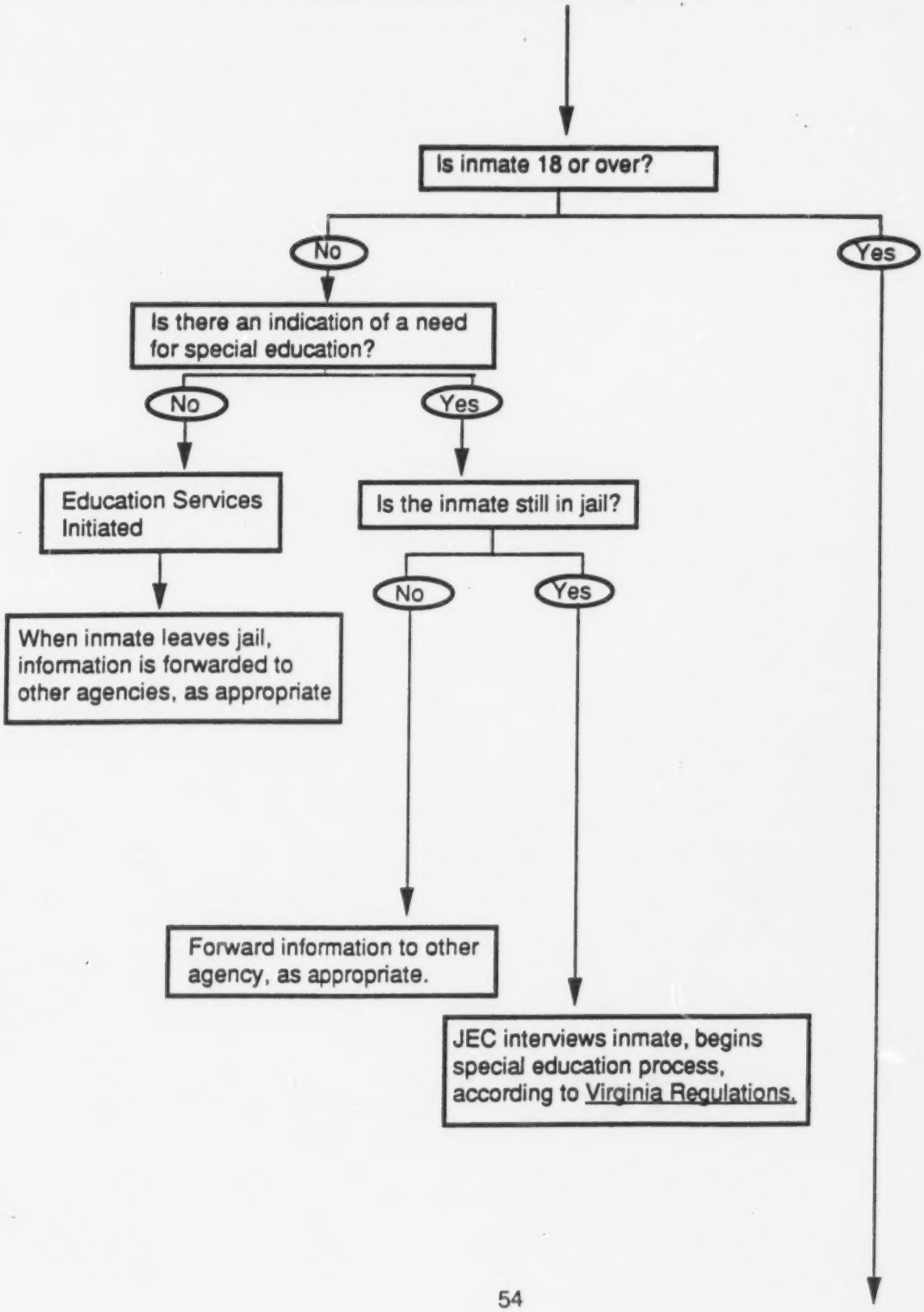
APPENDIX D: JAIL EDUCATION PROGRAMS FLOW CHART

PROVISION OF SERVICES TO STUDENTS WITH DISABILITIES IN VIRGINIA JAILS

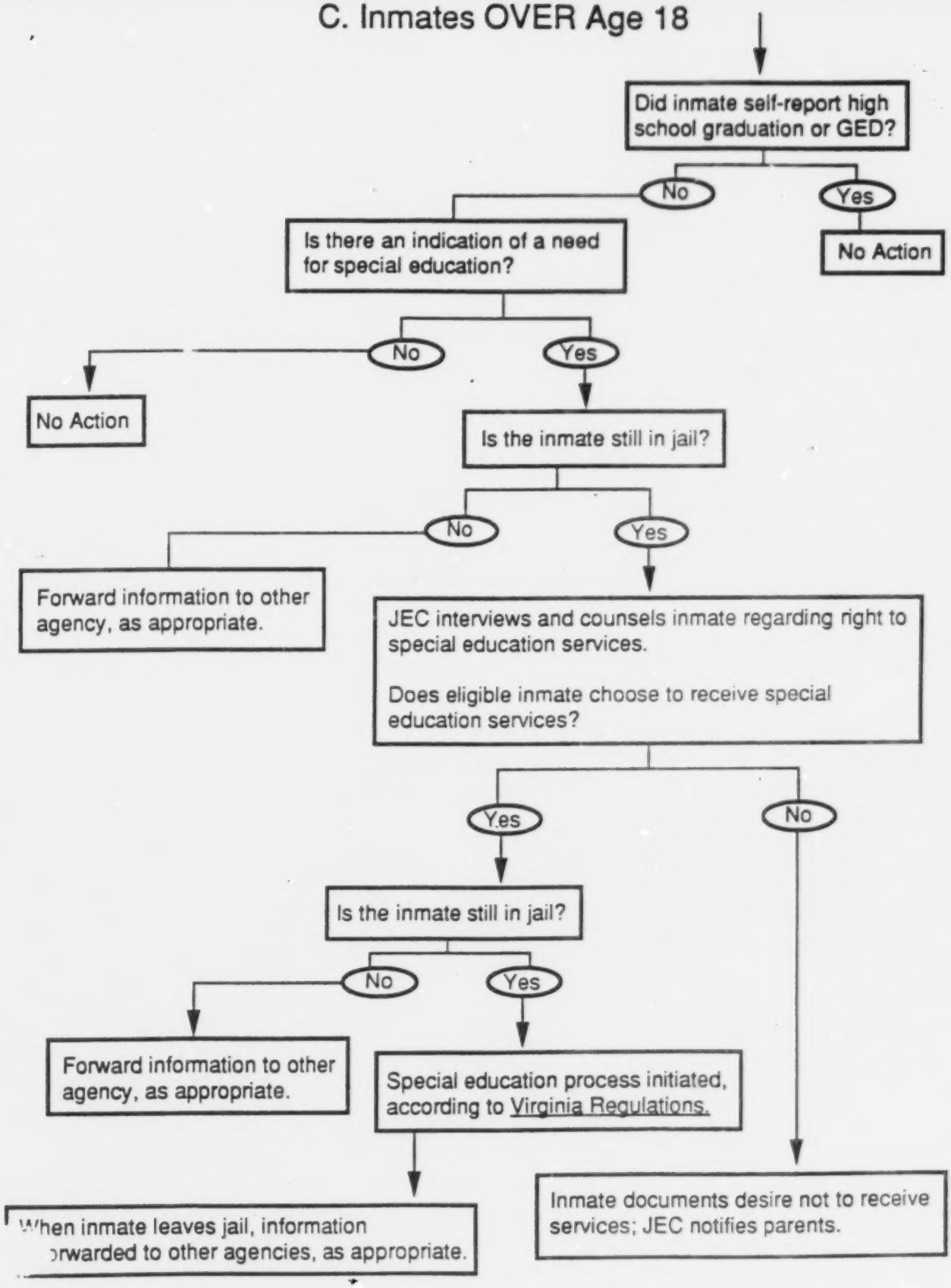
A. Intake


Youth (under age 22) committed to jail. Intake information obtained.
Released in 10 days or less?
No
Yes
No Action
Provide intake information to jail education contact (JEC) within 5 school administrative working days.

B. Inmates UNDER Age 18


Is inmate 18 or over?
No
Yes
Is there an indication of a need for special education?
No
Yes
Education Services Initiated
Is the inmate still in jail?
When inmate leaves jail, information is forwarded to other agencies, as appropriate
No
Yes
Forward information to other agency, as appropriate.
JEC interviews inmate, begins special education process, according to Virginia Regulations.

C. Inmates OVER Age 18


Did inmate self-report high school graduation or GED?
No
Yes
No Action
Is there an indication of a need for special education?
No
Yes
No Action
Is the inmate still in jail?
No
Yes
Forward information to other agency, as appropriate.
JEC interviews and counsels inmate regarding right to special education services.
Does eligible inmate choose to receive special education services?
Yes
No
Is the inmate still in jail?
No
Yes
Forward information to other agency, as appropriate.
Special education process initiated, according to Virginia Regulations.
When inmate leaves jail, information forwarded to other agencies, as appropriate.
Inmate documents desire not to receive services; JEC notifies parents.

APPENDIX E

FISCAL PROJECTION METHODOLOGY

To develop estimates of target population and fiscal impact for the two year jail education pilot program in fiscal years 93 and 94, information was used addressing six (6) jails which meet the criteria to be used in selecting the actual pilot sites. For each year, and for each jail, the following steps were completed:

1. Estimate the total number of inmates under age 22
2. Estimate the average daily population to be served
3. Estimate personnel needed
4. Estimate personal services cost
5. Estimate nonpersonal services cost

Each of these steps is described in detail below.

FISCAL YEAR 93 PILOT

1. **Estimate the total number of inmates under age 22.**

Data Source: Department of Corrections, Youth Released From Jail During Fiscal Year 1989-90; Length of Stay, Reason Confined, and Age (Request Number AH9107).

Procedure:

The number of inmates under age 22 released during FY 90 was increased by 11.2%. This is the percentage increase statewide projected by Department of

Planning and Budget (DPB) for the local responsible jail population (Department of Planning and Budget, Report of the Prison and Jail Forecasting Policy Committee, October 1991).

2. **Estimate the average daily population (ADP) to be served.**

Data Source: Department of Corrections, Youth Released From Jail During Fiscal Year 1989-90; Length of Stay, Reason Confined, and Age (Request Number AH9107).

Procedure:

1) Average Daily Population, under age 18:

All inmates under age 18 with a length of stay of 10 days are eligible for services. However, an additional 5 days will pass before services will actually begin. Average Daily Population (ADP) to be served is calculated by determining the total number of bed-days for all under 18 inmates with a length of stay greater than 15 days, and dividing by 365. For example, five inmates, each with a length of stay of 31 days, would generate 80 bed-days of services needed (5 x [31 - 15] = 80).

2) Average Daily Population, ages 18 through 21:

As with the inmates under age 18, ADP to be served for the 18 through 21 population is calculated by determining the number of bed-days for all eligible inmates with a length of stay greater than 15 days. However, eligibility for the 18 through 21 population is not based solely on age. Therefore, the number of eligible inmates must first be determined.

The following eligibility assumptions were made:

- o 72% probability that an inmate has not completed high school or equivalent (Department of Criminal Justice Services, 1991)
- o 50% probability that an inmate has a disability requiring special education (Rutherford, 1991); and,
- o 62% probability that an inmate otherwise eligible for special education will elect to receive services (Department of Correctional Education, 1988).

Based on these assumptions, there is a 22% probability that an inmate (18 through 21) will need special education services. If all inmates had the same length of stay, the 22% probability factor could be applied to the number of bed-days generated by all of the inmates, and the ADP calculated by dividing by 365 days. But, because any given inmate may generate a disproportionate number of bed-days, it is more accurate to estimate a range of bed-days.

The high end of the range was established by applying the 22% probability to the number of inmates at each length of stay period, rounding up, and then calculating the number of bed-days. Therefore, if an inmate had a unique length of stay in that jail, he would be counted as an eligible inmate (e.g., 1 inmate x 22% = 0.22, rounded up = 1). The low end of the range was established by applying the 22% probability to the number of inmates at each length of stay with no rounding, and then calculating the number of bed-days. The average of the high limit ADP and the low limit ADP was then used as the estimated ADP to be served for the 18 through 21 population.

3) FY 90 estimated ADP = ADP under 18 + ADP ages 18-21

4) Increase the FY 90 estimated ADP by 11.2%. This is the percentage increase statewide projected by DPB for the local responsible jail population (Department of Planning and Budget, 1991).

3. **Estimate personnel needed.**

Teachers: The estimated number of teachers needed is based on a maximum class size/caseload of 12 students per teacher. This is the current State requirement for education programs in detention homes and correctional facilities.

Coordinators: The coordinator in any given locality may have a variety of responsibilities. The number of coordinators needed is not easily predicted. For the purpose of the pilots, the following subjective guideline was used (based on the total number of inmates to be processed, interviewed, and served):

- o population (under 22) < 100: .25 coordinator
- o at population of 100: .50 coordinator
- o at population of 500: 1 coordinator
- o at population of 3,400: 2 coordinators
- o at population of 5,000: 3 coordinators
- o at population of 6,800: 4 coordinators

Related Services Personnel: Subjective assumption of 1 related services personnel needed for every 100 ADP to be served.

Clerical Personnel: Subjective assumption of 1 clerical personnel needed for each 6 other staff; rounded.

ESTIMATED PERSONNEL NEEDED - FY 93 JAIL EDUCATION PILOT PROGRAM

PILOT	Total inmate population under age 22	ADP of inmates needing special education	Teachers (FTE)	Coordinators (FTE)	Related service personnel (FTE)	Clerical personnel (FTE)
1	3,209	79	7.00	2.00	.75	2.00
2	1,285	42	3.50	1.00	.50	1.00
3	817	20	2.00	1.00	.25	1.00
4	773	19	2.00	1.00	.25	1.00
5	70	< 1		.25		
6	17	< 1		.25		
TOTAL	6,171	162	14.50	5.50	1.75	5.00

4. **Estimate personal services cost.**

Teachers: $40,440 each (10 months)

Coordinators: $48,528 each (12 months)

Related Services Personnel: $40,440 each (10 months)

Clerical Personnel: $16,000 each (12 months)

Teacher, coordinator and related service salaries were based on FY 92 classroom teacher funded salary (approved by the General Assembly), increased by 3%, with 20% added for for fringe benefits. Coordinator salaries were extended for 12 month employment. Clerical salaries were estimated.

5. **Estimate nonpersonal services cost.**

Supplies: $1,000 per teacher (rounded up); $1,000 minimum per site.

Equipment: $3,000 per site.

Travel: $1,500 per site.

ESTIMATED FUNDS NEEDED - FY 93 JAIL EDUCATION PILOT PROGRAM

PILOT	Teachers	Coordi-nators	Related Services	Clerical	TOTAL PERSONAL SERVICES	NON-PERSONAL SERVICES	TOTAL FUNDS NEEDED
1	$283,080	$93,056	$30,330	$32,000	$ 442,466	$11,500	$ 453,966
2	141,540	48,528	20,220	16,000	226,288	8,500	234,788
3	80,880	48,528	10,110	16,000	155,518	6,500	162,018
4	80,880	48,528	10,110	16,000	155,518	6,500	162,018
5		12,132			12,132	5,500	17,632
6		12,132			12,132	5,500	17,632
TOTAL	$545,940	$315,432	$70,770	$80,000	**$1,021,142**	**$43,000**	**$1,055,142**

FISCAL YEAR 94 PILOT

1. **Estimate the total number of inmates under age 22.**

   Procedure:

   Increase the FY 90 total number of inmates under age 22 by 16.7%. This is the percentage increase statewide projected by DPB for the local responsible jail population (Department of Planning and Budget, 1991).

2. **Estimate the average daily population (ADP) to be served.**

   Procedure:

   Increase the estimated FY 90 ADP by 16.7%. This is the percentage increase statewide projected by DPB for the local responsible jail population (Department

of Planning and Budget, 1991).

3. **Estimate personnel needed.**

Procedure:

Use the same assumptions used to estimate the personnel needs for FY 93.

ESTIMATED PERSONNEL NEEDED - FY 94 JAIL EDUCATION PILOT PROGRAM

PILOT	Total inmate population under age 22	ADP of inmates needing special education	Teachers (FTE)	Coordi-nators (FTE)	Related service personnel (FTE)	Clerical personnel (FTE)
1	3,368	83	7.00	2.00	1.00	2.00
2	1,349	44	4.00	1.00	.50	1.00
3	858	21	2.00	1.00	.25	1.00
4	811	20	2.00	1.00	.25	1.00
5	74	< 1		.25		
6	18	< 1		.25		
TOTAL	6,478	170	**15.00**	**5.50**	**2.00**	**5.00**

4. **Estimate personal services cost.**

Teachers: $41,653 each (10 months)

Coordinators: $49,984 each (12 months)

Related Services Personnel: $41,653 each (10 months)

Clerical Personnel: $16,480 each (12 months)

FY 93 salaries were increased by 3%.

5. **Estimate nonpersonal services cost.**

Supplies: $1,000 per teacher (rounded up); $1,000 minimum per site.

Equipment: No equipment needed for the second year.

Travel: $1,500 per site.

ESTIMATED FUNDS NEEDED - FY 94 JAIL EDUCATION PILOT PROGRAM

PILOT	Teachers	Coordi-nators	Related Services	Clerical	TOTAL PERSONAL SERVICES	NON-PERSONAL SERVICES	TOTAL FUNDS NEEDED
1	$291,571	$99,968	$41,653	$32,960	$ 466,152	$ 8,500	$ 474,652
2	166,612	49,984	20,827	16,480	253,903	5,500	259,403
3	83,306	49,984	10,413	16,480	160,183	3,500	163,683
4	83,306	49,984	10,413	16,480	160,183	3,500	163,683
5		12,496			12,496	2,500	14,996
6		12,496			12,496	2,500	14,996
TOTAL	$624,795	$324,896	$72,893	$82,400	**$1,104,984**	**$26,000**	**$1,130,984**

TOTAL FY 93 AND FY 94: $2,286,126

APPENDIX F

SPECIAL EDUCATION PROGRAMS IN JAILS IN OTHER STATES

Massachusetts

Richard Knox, Bureau of Special Education, Massachusetts indicated in a May, 1991 telephone interview that has thirteen "county houses of detention". The population, age 18 and above, is composed of those awaiting trial, and those serving sentences there. The average length of stay is two years or less. Special education services are offered through an intake system to all self-identified inmates under the age of 22 who choose to participate. Many inmates, who may be eligible, waive their right to services because they do not want their former school contacted for records. Therefore, only a small number of IEPs are completed each year.

Additionally, there are several jails in cities and towns which do not provide services. Inmates are assigned to a facility based on the location of the crime, and not on their need for services.

Chicago

Information was gathered during a May, 1991 telephone interview with Thomas Monahan, Director of Administration, and Nate Blackmon, of the Cook County Jail and School and a June 27, 1991 on-site visit. This facility houses 7,000 inmates and over 3,000 inmates were served by the school in 1990. The jail utilizes nine complexes to house the inmates. Five of these complexes provide educational services and those inmates assigned to certain areas within these complexes must attend school. However,

there is a waiting list.

The school is administered like a Chicago public school and is housed in a "school wing" separate from the general population. It is staffed by a principal, assistant principal and 60 teachers endorsed in special education (behavior disordered), hired by Chicago Public Schools, who provide both regular and special education. The program serves inmates ages 17-21 who have been detained awaiting trial and may remain at the jail for up to 365 days. In 1992-93, an identification and evaluation process will be established. The major handicapping conditions served are learning disabilities, emotional disturbance, educable mentally handicapped, and behavior disordered. In the past, all inmates were automatically labeled behaviorally disturbed upon entrance into the jail program. Federal funding flows through the Chicago school system.

Placement in the school wing is determined by the Department of Corrections. The wing was built to house 48 inmates, and has housed as many as 60 inmates at one time. Once the inmate is assigned to the school wing, he or she must attend school in any of 50 classrooms in five separate buildings. The school day lasts from 8:45 a.m. until 2:45 p.m., with each student receiving approximately 3.5 hours of services. The curriculum parallels that of the Chicago public high schools.

Through a computerized system, the school identifies which inmate has been in special education. If the student has not been identified, he or she may be referred for services, evaluated and placed. While the Department of Corrections has control over placement in the wing, it has no control over the educational program itself.

Inmates are escorted to and from class by officers. The use of the jail wing is seen

as effective because it prevents security problems that might occur if inmates were moved back and forth between the classrooms and general population.

An on-site visit to the County Juvenile Detention Center was conducted on June 28, 1991. Educational services are provided in four alternative programs to 450 students by 67 teachers employed by Chicago Public Schools. Currently, all services provided are in the area of special education because it was believed that entrance into the facility implied the need for special education. Educational and related services are provided for all handicapping conditions and the curriculum parallels that of the Chicago Public Schools. Teacher caseloads are 15-1 and students receive 3.5 hours of services daily. Social workers obtain the student's current IEP from local school divisions. An identification and evaluation process has been developed and will be implemented in 1991.

Maryland

According to Nell Miller, the Special Education Coordinator for Adult Facilities, the state has not been responsible for educational programs in the jail, but is about to assume that responsibility. The program in the jails will be modeled after those in the state adult facilities which can house inmates as young as 13 years of age. Correctional education is a part of the Maryland Department of Education.

APPENDIX G

SURVEY OF JAIL EDUCATION PROGRAMS

Survey of Education Programs
Offered in Virginia Jails

Dear Sheriff:

The Virginia State Sheriffs Association is assisting the Virginia Department of Eduction in conducting a survey of educational programs offered in jails. The results of the study will be presented to the Virginia State Crime Commission later this year. **Please return the completed survey no later than September 20, 1991.**

For your convenience the self-addressed survey should be folded and stapled, for mailing to the VSSA. If you have any questions regarding the survey, please contact Ms. Ussa Power-Cluver at (804) 225-2818. Your time and cooperation are appreciated.

Sincerely,
John W. Jones
Executive Director

Jurisdiction in which jail is located (city/county/town/region): _____

Person completing survey/title: _____

Phone number: _____

1. Are any of the following education programs offered in your jail? (Check all that apply)

☐ Adult basic education

☐ Traditional high school education

☐ Education for persons with disabilities (Special Education)

☐ Vocational education

2. Does your jail have a cooperative agreement in place with a local school division(s) for the provision of education services?

Yes ☐ (If YES, list the school divisions) _____

No ☐ (If NO, skip to Question 3)

2a. IF YES, under the cooperative agreement, who pays for the teachers? (If more than one entity contributes to the funding, check all that apply)

☐ Local school division

☐ Local government

☐ Jail funding

☐ Other (for example, grants or federal funds)

2b. Under the cooperative agreement, who pays for educational materials, supplies, and equipment? (If more than one entity contributes to the funding, check all that apply)

☐ Local school division

☐ Local government

☐ Jail funding

☐ Other (for example, grants or federal funds)

Please continue with questions

BEST COPY AVAILABLE

3. Does your jail facility have an area which was specifically planned for delivering educational services?

Yes ☐ No ☐
(If NO, skip to Question 4)

3a. IF YES, is the area currently used for providing educational services?

Yes ☐ No ☐
(If NO, please explain)

_____
_____
_____

4. Does your jail facility have any area where you could provide educational services?

Yes ☐ No ☐

4a. IF YES, approximately how many hours per day would the room be available for delivering educational services?

Estimated available hours per day _____

Estimated available days per week _____

THANK YOU FOR COMPLETING THE SURVEY.

Fold and staple survey for mailing.

VSSA
9507 Hull Street Road
Suite D
Richmond, Virginia 23236

Virginia State Sheriffs Association
9507 Hull Street Road, Suite D
Richmond, Virginia 23236

APPENDIX H

ON-SITE VISITS TO VIRGINIA JAILS

Richmond City Jail - June 10, 1991

At the time of the visit, the Richmond City Jail housed 1,150 inmates. The jail is designed to hold 629 and its capacity has been rated by the Department of Corrections to 875.

The Richmond City Jail has had an education program since 1973. The education program serves both men and women in separately structured programs, and maintains a waiting list. At the time of the visit, the program was serving 10 to 15 juveniles, 35 adult women, and 40 adult men.

The Richmond City Jail is unique in that there is a separate 'educational tier' where any inmate without a high school diploma or GED may request to live. Participation is optional and the inmate is accepted into the program with the understanding that he or she will abide by the "Code of Respect." The number of inmates housed on the educational tier is limited and it is, therefore, viewed as a premium living area. Since the standards are very clear, very strict, and conscientiously enforced by inmates and jail employees, the unit has very few disciplinary problems.

The instructional portion of the program is cooperatively taught by two instructors, employed by the jail, and approximately 10 inmate tutors who have been screened and trained by the instructors. The tutors provide the majority of the instruction while the two teachers work directly with inmate students approximately ten hours a week. No special

education services are provided by definition, but instruction for all educational levels, from non-reading literacy to GED preparation, is available.

Fairfax County Jail - June 6, 1991

At the time of the visit, special education services were not being offered, and a referral procedure was not in place. Instruction is provided by 4 part-time teachers employed by Fairfax County Schools who are degreed, but not necessarily certified. Educational services, which include GED preparation, communication skills, English as a Second Language (ESL) and introductory computer classes, are provided between 5 and 15 hours per week. Tutors and volunteers assist in classes averaging 20 students and there is a waiting list.

Norfolk City Jail - June 20, 1991

There is a juvenile section and three classrooms capable of accommodating about sixty students at the Norfolk jail. At the time of the visit, no special education services were being offered. Staff includes two educational specialists, a librarian, a full-time substance abuse specialist, five volunteers and three ministers who are funded by various agencies, not including the local school division. Participation in educational services, such as GED preparation, substance abuse evaluation and treatment, correspondence courses and Bible study, is voluntary.

Contact with the Norfolk Public Schools Director of Special Education indicated that efforts were initiated in 1991 to provide services to an incarcerated youth previously found eligible for special education.

Alexandria Jail - July 10, 1991

Although the Alexandria jail is new, it is overcrowded. Program space is used for Adult Basic Education programs during the calendar year and a teacher employed by Alexandria Public Schools provides educational services under a local agreement. The jail offers a strong substance abuse program which is open to inmates with disabilities. However, there is no special education offered at the jail and the jail does not house juveniles.

Rappahannock Joint Security Complex - September 5, 1991

This complex serves Fredericksburg, Stafford and King George counties, under the governance of a local jail board. The jail is administered by a jail superintendent and is currently overcrowded. A number of inmates, who were arrested during a drug transaction, are from out-of-state.

The jail has limited program space, but anticipates space will be available when the new wing is completed in 1992. Through a cooperative agreement with local school divisions, Adult Basic Education services are provided. Students with disabilities may enroll in the program, but a special education program is not offered at the jail.

APPENDIX I

VIRGINIA'S JUVENILE JUSTICE SYSTEM

The first point of contact with the Virginia juvenile justice system occurs at the law enforcement level. Law enforcement agencies are locally operated through the Commonwealth's 264 local police departments and sheriff's offices. Each jurisdiction is served by one of 34 local or regional Juvenile and Domestic Relations Courts. Virginia's juvenile court districts provide 24 hour intake services for juveniles, with the goal of diverting youth from formal court action through program referral within the Court Service Unit or other community alternatives, if at all possible.

Detention Homes: There are 17 secure detention homes in Virginia, operated on a local or regional basis. Most operational costs are reimbursed by the Department of Youth and Family Services. Medical, recreational, educational, transportation and counseling services are offered. These state operated programs are administered by the Department of Education with educational personnel employed through the local school divisions. Educational services are available 5.5 hours per day on an eleven month basis. Virginia Regulations establish teacher-pupil ratios as one teacher per twelve beds in the detention facility. Youthful offenders may be placed in one of the detention homes pending their adjudicatory hearing and/or their dispositional hearing, or they may be sentenced there as punishment for an offense. Dramatic increases in the use of these facilities and increased length of stay has caused chronic overcrowding problems in many detention homes.

Learning Centers: A juvenile may be committed to the Department of Youth and Family Services for an indeterminate length of time. Upon commitment, youth are transferred to the Reception and Diagnostic Center for screening, testing, needs assessments, and placement. Depending on the staff's assessment, a youth may be transferred to one of six state operated learning centers. Learning centers provide medium to secure confinement for youth needing highly structured placements and constant supervision and release is dependent upon completion of a treatment plan. Educational programs, administered by the Department of Correctional Education, along with psychological and psychiatric services, are provided.

Department of Corrections: Youthful offenders, age 15 and over, may be sentenced to a facility for adult offenders. The Virginia Department of Corrections operates 19 major institutions and 29 "field units" for adult offenders. Most prisoners enter DOC facilities through reception and classification centers and are transferred to a facility based on age, security requirements, treatment needs and space availability. Prisoners may request participation in educational and work programs available at that facility.

Jails: Virginia operates 97 jails, including 86 local jails, 6 regional jails, 3 city farms and 2 jails at state facilities. Although they must comply with the Virginia Board of Corrections' Minimum Standards for Local Jails and Lockups, the responsibility for administration of programs falls to the local community. Jails are administered by locally elected sheriffs who are constitutional officers with four primary functions: law enforcement, serving warrants and processes, providing courtroom security and

operating the local jails. Jails are funded by a mixture of local community, state and federal dollars.

Persons incarcerated in jail generally fall into two categories: those awaiting trial, those who are sentenced. Jails house locally responsible inmates (all misdemeanants, felons with less than two years to serve, and persons awaiting trial). The Code of Virginia provides the Director of the Department of Corrections with the discretion to authorize transfer of prisoners from local jails, provided those prisoners have more than two years to serve after sentencing.

APPENDIX J

LISTING OF LOCAL SCHOOL DIVISIONS AND JAILS

Jail	Localities	Jail	Localities
Accomack County Jail	Accomack County	Martinsville City Jail & Farm	Martinsville City
Albemarle/Charlottesville Joint Security Complex	Albemarle County Charlottesville City	Mecklenburg County Jail	Mecklenburg County
Alexandria City Jail	Alexandria City	Middle Peninsula Regional Jail	Essex County King & Queen County King William County Mathews County Middlesex County
Alleghany County Jail	Alleghany County Covington City	Montgomery County Jail	Montgomery County
Amherst County Jail	Amherst County	Nelson County Jail	Nelson County
Appomattox County Jail	Appomattox County	Newport News City Jail & Farm	Newport News City
Arlington County Jail	Arlington County Falls Church City	Norfolk City Jail	Norfolk City
Augusta County Jail	Augusta County Staunton City Waynesboro City	Northampton County Jail	Northampton County
Bath County Jail	Bath County	Northumberland County Jail	Northumberland County
Bedford County Jail	Bedford County Bedford City	Page County Jail	Page County
Bland County Jail	Bland County	Patrick County Jail	Patrick County
Botetourt County Jail	Botetourt County Craig County	Petersburg City Jail & Annex	Petersburg City

Bristol City Jail	Bristol City	Piedmont Regional Jail	Amelia County Buckingham County Cumberland County Lunenburg County Nottoway County Prince Edward County
Brunswick County Jail	Brunswick County	Pittsylvania County Jail	Pittsylvania County
Buchanan County Jail	Buchanan County	Portsmouth City Jail	Portsmouth City
Campbell County Jail	Campbell County	Powhatan Correctional Center	Powhatan County
Caroline County Jail	Caroline County	Prince William/Manassas Detention Center	Prince William County Manassas City Manassas Park City
Carroll County Jail	Carroll County	Pulaski County Jail	Pulaski County
Central Virginia Regional Jail	Fluvanna County Greene County Louisa County	Radford City Jail	Radford City
Charlotte County Jail	Charlotte County	Rappahannock County Jail	Rappahannock County
Chesapeake City Jail	Chesapeake City	Rappahannock Security Center Regional Jail	King George County Spotsylvania County Fredericksburg City
Chesterfield County Jail	Chesterfield County	Richmond City Jail	Richmond City
Clarke, Frederick, Winchester Regional Jail	Clarke County Frederick County Winchester City	Richmond County Jail	Richmond County
Clifton Forge City Jail	Clifton Forge City	Roanoke City Jail	Roanoke City
Culpeper County Jail	Culpeper County	Roanoke County Jail	Roanoke County Salem City
Danville City Jail & Farm	Danville City	Rockbridge Regional Jail	Rockbridge County Buena Vista City Lexington City
Dickenson County Jail	Dickenson County	Rockingham County Jail	Rockingham County Harrisonburg City
Dinwiddie County Jail	Dinwiddie County	Russell County Jail	Russell County
Fairfax County Jail	Fairfax County Fairfax City	Scott County Jail	Scott County

Fauquier County Jail	Fauquier County	Shenandoah County Jail	Shenandoah County
Floyd County Jail	Floyd County	Smyth County Jail	Smyth County
Franklin County Jail	Franklin County	Southampton County Jail	Southampton County Franklin City
Giles County Jail	Giles County	Stafford County Jail	Stafford County
Gloucester County Jail	Gloucester County	Suffolk City Jail	Suffolk City
Grayson County Jail	Grayson County	Sussex City Jail	Sussex City
Greensville County Jail	Greensville County Emporia City	Tazewell County Jail	Tazewell County
Halifax County Jail	Halifax County South Boston City	Virginia Beach City Jail	Virginia Beach City
Hampton City Jail	Hampton City	Virginia Correctional Center for Women	Goochland County
Hanover County Jail	Hanover County	Warren County Jail	Warren County
Henrico County Jail	Henrico County Charles City County New Kent County	Washington County Jail	Washington County
Henry County Jail	Henry County	Westmoreland County Jail	Westmoreland County
Highland County Jail	Highland County	Williamsburg/James City County Jail	Williamsburg City James City County
Hopewell City Jail	Hopewell City	Wise County Jail	Wise County Norton City
James River Correctional Center (Male)	Goochland County	Wythe County Jail	Wythe County
Lancaster County Jail	Lancaster County	York County Jail	York County Poquoson City
Lee County Jail	Lee County		
Loudoun County Jail	Loudoun County		
Lynchburg City Jail	Lynchburg City		

* Source: Department of Criminal Justice Services, May 23, 1991